

TTAB

BOX TTAB/NO FEE

01938.005119.



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

re application of : KETO, L.L.C.
Serial No. : 76/548,678
Filing Date : September 16, 2003
Trademark : KETO HOT COCOA
Goods : HOT COCOA MIX
International Class : 30

REQUEST FOR AN EXTENSION OF TIME TO FILE NOTICE OF OPPOSITION

BOX TTAB/NO FEE
Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3514

Sir:

In connection with the above-referenced application which was published for opposition in the *Official Gazette* on July 20, 2004, undersigned counsel for the potential Opposer, Natural Organics Inc., located at 548 Broadhollow Road, Melville, New York 11747, jointly requests, with the consent of Applicant's counsel, Clyde A. Shuman, Esq., both an initial extension of time of ninety (90) days until November 17, 2004 within which to oppose, and a further extension of time for an additional sixty (60) days, through January 16, 2005, to file the Notice of Opposition in this case.

[REDACTED]

08-19-2004

U.S. Patent & TMO/TM Mail Rcpt Dt. #22

The potential Opposer submits that good cause exists for obtaining the requested maximum extension of time in view of the fact that Applicant's right to oppose in this case is based on its claim of ownership in the term KETO, which claim is at issue in a litigation now pending in the United States District Court for the Southern District of New York – Life Services Supplements, Inc. (by change of name to Keto, L.L.C.) v. Natural Organics Inc., Civil Action No. 03-CV-6030. The parties agree that the outcome of the litigation may be determinative of Applicant's right to register the trademark in this application.¹

At present, it is possible that the litigation will be terminated by the end of the requested 180-day total extension of time period, thereby rendering an opposition proceeding unnecessary. However, should the litigation not be terminated by that date, potential Opposer will file a Notice of Opposition and thereafter the parties will jointly seek to place the opposition in suspense pursuant to Trademark Rule 2.117(a).

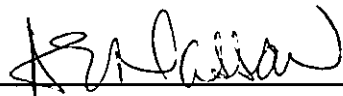
This joint request is made with the oral consent of Applicant's counsel and a

^{1/} In a companion matter, Cancellation Proceeding No. 92/042,332, the Trademark Trial and Appeal Board stayed the cancellation proceeding on this very basis.

certificate of service thereon is attached hereto.

Dated: August 18, 2004

Respectfully submitted,

By: 

Pasquale A. Razzano
Aimee E. Nassau

FITZPATRICK, CELLA, HARPER
& SCINTO
30 Rockefeller Plaza
New York, New York 10112
Tel. (212) 218-2100

Attorneys for Potential Opposer,
Natural Organics Inc.

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true and complete copy of the foregoing REQUEST FOR AN EXTENSION OF TIME TO FILE NOTICE OF OPPOSITION was mailed by first class mail, postage prepaid, on this 18th day of August, 2004 to counsel for Applicant as follows:

Clyde A. Shuman, Esq.
Gibbons, Del Deo, Dolan, Griffinger & Vecchione, P.C.
One Riverfront Plaza
Newark, New Jersey 07102.

A handwritten signature in cursive script, appearing to read "Aimee E. Nassau", written over a horizontal line.

Aimee E. Nassau